

The Honorable Benjamin H. Settle

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA**

DREW MACEWEN, *et al.*,

Plaintiff,

vs.

GOVERNOR JAY INSLEE, in his
official capacity as the Governor of
Washington,

Defendant.

NO. 3:20-cv-05423-BHS

DEFENDANT GOVERNOR
JAY INSLEE'S ANSWER TO
AMENDED COMPLAINT FOR
DECLARATORY AND
INJUNCTIVE RELIEF

AND

AFFIRMATIVE DEFENSES

GENERAL DENIAL

The Defendant, Jay Inslee, in his official capacity as Governor of the State of Washington, by and through his attorneys, Attorney General Robert W. Ferguson, Assistant Attorneys General Zachary Pekelis Jones and Brendan Selby, and Deputy Solicitors General Jeffrey T. Even, Emma S. Grunberg, and Paul M. Weideman, hereby answers Plaintiffs' Amended Complaint for Declaratory Judgment and Injunctive Relief (Complaint). Except as herein expressly admitted or qualified, Defendant denies each and every allegation, statement, or charge contained in the Complaint, and denies that Plaintiff is entitled to any of the relief requested. The coronavirus disease 2019 (COVID-19) pandemic is an unprecedented state, national, and international emergency that has demanded an unprecedented governmental response to protect public health. The emergency orders issued by the Governor of Washington, like similar orders issued by numerous national, state,

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ATTORNEY GENERAL OF WASHINGTON
Complex Litigation Division
800 5th Avenue, Suite 2000
Seattle, WA 98104-3188
(206) 474-7744

1 regional, and local governments around the world, currently represent the best mechanism to
 2 mitigate the spread of COVID-19, which has no vaccine and no known cure. Statewide emergency
 3 action is a drastic measure, to be sure. But it is also a necessary one, as well as a lawful exercise of
 4 the Governor's express powers that infringes none of Plaintiff's constitutional rights. Defendant
 5 responds to the numbered allegations in the Complaint as follows:

I. INTRODUCTION

7 1. Defendant denies the descriptive characterizations contained in Paragraph 1.
 8 Defendant admits that a novel coronavirus began circulating in Washington in late 2019 or early
 9 2020. Defendant admits that the virus affected residents of nursing homes in King County.
 10 Defendant admits that the virus affected Hubei province, China. Defendant is without
 11 information sufficient to form a belief as to the truth of the remainder of the allegations in
 12 Paragraph 1, and therefore denies the same.

13 2. Defendant denies the descriptive characterizations contained in Paragraph 2.
 14 Defendant admits that available evidence and modeling suggested a potential public health
 15 disaster, that the virus appeared to spread quickly and primarily by respiratory droplets, and that
 16 the rate of spread raised concerns as to the state's hospital capacity being overwhelmed.
 17 Defendant is without information sufficient to form a belief as to the truth of the remainder of
 18 the allegations in Paragraph 2, and therefore denies the same.

19 3. Defendant denies the descriptive characterizations contained in Paragraph 3.
 20 Defendant admits that models suggested that Washington could run out of hospital resources as
 21 a result of COVID-19. Defendant is without information sufficient to form a belief as to the truth
 22 of the remainder of allegations in Paragraph 3, and therefore denies the same.

23 4. Deny.

24 5. Defendant denies the descriptive characterizations contained in Paragraph 5.
 25 Defendant admits that significant measures were taken to avert a public health crisis, including

1 the installation of a field hospital in Seattle’s CenturyLink Field, the mobilization of health care
 2 workers, and businesses requiring employees to work from home. Defendant is without
 3 information sufficient to form a belief as to the truth of the remainder of the allegations in
 4 Paragraph 5, and therefore denies the same.

5 6. Defendant denies the descriptive characterizations contained in Paragraph 6.
 6 Defendant admits that Washington has pulled together to flatten the epidemiological curve of
 7 the virus. Defendant further admits that he ordered restrictions on movement and gathering in
 8 the state. Defendant denies the remainder of the allegations in Paragraph 6.

9 7. Defendant admits that one important goal, among others, of public health
 10 measures taken in response to the virus was to spread the rate of infections over a longer time
 11 interval. Defendant denies the remainder of the allegations in Paragraph 7.

12 8. Deny.

13 9. Defendant admits that one important goal, among others, of public health
 14 measures taken in response to the virus was to spread the rate of infection out over time to prevent
 15 the overwhelming of medical resources. Defendant denies the remainder of the allegations in
 16 Paragraph 9.

17 10. Defendant admits that COVID-19 posed—and continues to pose—a threat to the
 18 state. Defendant denies that the factors identified in Paragraph 10 were exhaustive of how this
 19 threat was characterized or assessed.

20 11. Defendant admits that he issued Proclamation 20-25 (the Proclamation) on
 21 March 23, 2020. Defendant admits that this Proclamation has been described as a “Stay Home,
 22 Stay Healthy” order. Defendant admits that one purpose of the Proclamation was to slow the
 23 spread of COVID-19. The text of the Proclamation and subsequent amendments speaks for itself.
 24 To the extent a further response is required, the remainder of Paragraph 11 is denied.

25 12. Deny.

1 13. Deny.

2 14. Deny.

3 15. Defendant admits that in April, 2020, Washington State returned approximately
4 400 or the 500 ventilators it had received from the federal government, which were not suitable
5 for treating COVID-19 patients, to the Strategic National Stockpile. Defendant denies the
6 remainder of the allegations in Paragraph 15.

7 16. Defendant admits that no patients were treated at the Army field hospital at
8 CenturyLink Field before it was disassembled and redeployed for use elsewhere. To the extent
9 a further response is required, the remainder of Paragraph 16 is denied.

10 17. Defendant admits that as time goes on, medical officials are generally learning
11 more about how to treat individuals affected with COVID-19. To the extent a further response
12 is required, the remainder of Paragraph 17 is denied.

13 18. Defendant is without information sufficient to form a belief as to the truth of the
14 allegations in Paragraph 18, and therefore denies the same.

15 19. Defendant is without information sufficient to form a belief as to the truth of the
16 allegations in Paragraph 19, and therefore denies the same.

17 20. Defendant admits that a significant percentage of those infected with COVID-19
18 are asymptomatic or pre-symptomatic. Defendant is without information sufficient to form a
19 belief as to the truth of the remainder of the allegations in Paragraph 20, and therefore denies the
20 same.

21 21. Defendant is without information sufficient to form a belief as to the truth of the
22 allegations in Paragraph 21, and therefore denies the same.

23 22. Defendant denies that the threat to Washington's hospital system is gone.
24 Defendant is without information sufficient to form a belief as to the truth of the allegations in
25 Paragraph 22, and therefore denies the same.

23. Defendant is without information sufficient to form a belief as to the truth of the allegations in Paragraph 23, and therefore denies the same.

24. Defendant is without information sufficient to form a belief as to the truth of the allegations in Paragraph 24, and therefore denies the same.

25. Defendant is without information sufficient to form a belief as to the truth of the allegations in Paragraph 25, and therefore denies the same.

26. Defendant is without information sufficient to form a belief as to the truth of the allegations in Paragraph 26, and therefore denies the same.

27. Defendant is without information sufficient to form a belief as to the truth of the allegations in Paragraph 27, and therefore denies the same.

28. Defendant admits that COVID-19 appears to produce worse outcomes for some broadly-defined statistical population groups, including the elderly and individuals with certain underlying health conditions, than for others. Defendant denies the remainder of the allegations in Paragraph 28.

29. Deny.

30. Defendant is without information sufficient to form a belief as to the truth of the allegations in Paragraph 30, and therefore denies the same.

31. Defendant admits that, at present, some restrictions on gatherings of people remain in place pursuant to the Governor's emergency orders. To the extent a further response is required, the remainder of Paragraph 31 is denied.

32. Deny.

33. Deny.

34. Defendant admits that a significant percentage of those infected with COVID-19 are asymptomatic or pre-symptomatic. To the extent a further response is required, the remainder of Paragraph 34 is denied.

35. Admit.

36. Deny.

37. Defendant admits that more information about COVID-19 exists today than in early March. Defendant admits that the threat to vulnerable populations remains. Defendant denies the remainder of the allegations in Paragraph 37.

38. Deny.

39. Deny.

40. Deny.

41. Deny.

42. Deny.

43. Deny.

44. Defendant admits that COVID-19 continues to threaten nursing homes. Defendant denies the remainder of the allegations in Paragraph 44.

45. Defendant admits that plans to track and trace the spread of the virus to prevent its further spread have been considered and proposed. Defendant denies the remainder of the allegations in Paragraph 45.

46. Deny.

47. Deny.

48. Deny.

49. Defendant is without information sufficient to form a belief as to the truth of the in Paragraph 49, and therefore denies the same.

50. Deny.

51. Deny.

52. Deny.

53. Paragraph 53 asserts legal conclusions and argument to which no response is required. To the extent a response is required, the allegations are denied.

II. JURISDICTION AND VENUE

54. Paragraph 54 asserts legal conclusions and argument to which no response is required. To the extent a response is required, the allegations are denied.

55. Paragraph 55 asserts legal conclusions and argument to which no response is required. To the extent a response is required, the allegations are denied.

56. Paragraph 56 asserts legal conclusions and argument to which no response is required. To the extent a response is required, the allegations are denied.

57. Defendant admits that venue is proper in this judicial district under 28 U.S.C. § 1391.

III. PARTIES

58. Defendant is without information sufficient to form a belief as to the truth of the allegations in Paragraph 58, and therefore denies the same.

59. Defendant is without information sufficient to form a belief as to the truth of the allegations in Paragraph 59, and therefore denies the same.

60. Defendant is without information sufficient to form a belief as to the truth of the allegations in Paragraph 60, and therefore denies the same.

61. Defendant is without information sufficient to form a belief as to the truth of the allegations in Paragraph 61, and therefore denies the same.

62. Defendant is without information sufficient to form a belief as to the truth of the allegations in Paragraph 62, and therefore denies the same.

63. Defendant is without information sufficient to form a belief as to the truth of the allegations in Paragraph 63, and therefore denies the same.

64. Defendant is without information sufficient to form a belief as to the truth of the allegations in Paragraph 64, and therefore denies the same.

65. Defendant is without information sufficient to form a belief as to the truth of the allegations in Paragraph 65, and therefore denies the same.

66. Defendant is without information sufficient to form a belief as to the truth of the allegations in Paragraph 66, and therefore denies the same.

67. Defendant is without information sufficient to form a belief as to the truth of the allegations in Paragraph 67, and therefore denies the same.

68. Defendant is without information sufficient to form a belief as to the truth of the allegations in Paragraph 68, and therefore denies the same.

IV. FACT ALLEGATIONS

A. Relevant Public Health Data

69. Paragraph 69 asserts legal conclusions and argument to which no response is required. To the extent a response is required, the allegations are denied.

70. Defendant is without information sufficient to form a belief as to the truth of the allegations in Paragraph 70, and therefore denies the same.

71. Defendant is without information sufficient to form a belief as to the truth of the allegations in Paragraph 71, and therefore denies the same.

72. Defendant admits that COVID-19 poses a health threat to the very old, the very sick, and residents of long term care facilities. Defendant denies the remainder of the allegations in Paragraph 72.

73. Defendant admits that the infection of front-line health care workers who work to protect the lives of those at risk of dying poses a public health risk. Defendant denies the remainder of the allegations in Paragraph 73.

74. Deny.

75. Admit.

76. Paragraph 76 asserts legal conclusions and argument to which no response is required. To the extent a response is required, the allegations are denied.

77. Paragraph 77 asserts legal conclusions and argument to which no response is required. To the extent a response is required, the allegations are denied.

78. Paragraph 78 asserts legal conclusions and argument to which no response is required. To the extent a response is required, the allegations are denied.

79. Defendant is without information sufficient to form a belief as to the truth of the allegations in Paragraph 79, and therefore denies the same.

80. Defendant is without information sufficient to form a belief as to the truth of the allegations in Paragraph 80, and therefore denies the same.

81. Paragraph 81 asserts legal conclusions and argument to which no response is required. To the extent a response is required, the allegations are denied.

82. Paragraph 82 asserts legal conclusions and argument to which no response is required. To the extent a response is required, the allegations are denied.

83. Deny.

84. Defendant is without information sufficient to form a belief as to the truth of allegations concerning the specific data released by county health departments. Defendant denies the remainder of the allegations in Paragraph 84.

85. Defendant is without information sufficient to form a belief as to the truth of the allegations in Paragraph 85, and therefore denies the same.

86. Defendant is without information sufficient to form a belief as to the truth of the allegations in Paragraph 86, and therefore denies the same.

87. Defendant is without information sufficient to form a belief as to the truth of the allegations in Paragraph 87, and therefore denies the same.

1 88. Deny.

2 89. Defendant is without information sufficient to form a belief as to the truth of the
3 allegations in Paragraph 89, and therefore denies the same.

4 90. Defendant is without information sufficient to form a belief as to the truth of the
5 allegations in Paragraph 90, and therefore denies the same.

6 91. Defendant is without information sufficient to form a belief as to the truth of the
7 allegations in Paragraph 91, and therefore denies the same.

8 92. Defendant is without information sufficient to form a belief as to the truth of the
9 allegations in Paragraph 92, and therefore denies the same.

10 93. Defendant is without information sufficient to form a belief as to the truth of the
11 allegations in Paragraph 93, and therefore denies the same.

12 94. Defendant is without information sufficient to form a belief as to the truth of the
13 allegations in Paragraph 94, and therefore denies the same.

14 95. Defendant is without information sufficient to form a belief as to the truth of the
15 allegations in Paragraph 95, and therefore denies the same.

16 96. Defendant is without information sufficient to form a belief as to the truth of the
17 allegations in Paragraph 96, and therefore denies the same.

18 97. Defendant is without information sufficient to form a belief as to the truth of the
19 allegations in Paragraph 97, and therefore denies the same.

20 98. Defendant denies the descriptive characterizations contained in Paragraph 98.
21 Defendant is without information sufficient to form a belief as to the truth of the remainder of
22 Paragraph 98, and therefore denies the same.

23 99. Defendant is without information sufficient to form a belief as to the truth of the
24 allegations in Paragraph 99, and therefore denies the same.

1 100. Defendant is without information sufficient to form a belief as to the truth of the
2 allegations in Paragraph 100, and therefore denies the same.

3 101. Defendant is without information sufficient to form a belief as to the truth of the
4 allegations in Paragraph 101, and therefore denies the same.

5 102. Deny.

6 103. Deny.

7 104. Defendant is without information sufficient to form a belief as to the truth of the
8 allegations in Paragraph 104, and therefore denies the same.

9 105. Deny.

10 106. Defendant admits that Paragraph 106 appears to contain an accurate quotation of
11 Dr. Anthony S. Fauci from a news release. Defendant denies the remainder of the allegations in
12 paragraph 106.

13 107. Paragraph 107 asserts legal conclusions and argument to which no response is
14 required. To the extent a response is required, the allegations are denied.

15 108. Paragraph 108 asserts legal conclusions and argument to which no response is
16 required. To the extent a response is required, the allegations are denied.

17 109. Deny.

18 110. Deny.

19 111. Defendant is without information sufficient to form a belief as to the truth of the
20 allegations in Paragraph 111, and therefore denies the same.

21 112. Deny.

22 113. Defendant is without information sufficient to form a belief as to the truth of the
23 allegations in Paragraph 113, and therefore denies the same.

24 114. Defendant is without information sufficient to form a belief as to the truth of the
25 allegations in Paragraph 114, and therefore denies the same.

115. Defendant is without information sufficient to form a belief as to the truth of the allegations in Paragraph 115, and therefore denies the same.

116. Deny.

117. Defendant denies the descriptive characterizations contained in Paragraph 117. Defendant is without information sufficient to form a belief as to the truth of the remainder of Paragraph 117, and therefore denies the same.

118. Deny.

119. Paragraph 119 asserts legal conclusions and argument to which no response is required. To the extent a response is required, the allegations are denied.

120. Deny.

121. Paragraph 121 asserts legal conclusions and argument to which no response is required. To the extent a response is required, the allegations are denied.

122. Defendant admits that he has declared a state of emergency. To the extent a further response is required, the remaining allegations in Paragraph 122 are denied.

B. Proclamations

1. Proclamation 20-05

123. Admit.

124. Defendant admits that Proclamation 20-25 cites RCW 43.06.220 as one authority for the exercise of emergency powers. To the extent a further response is required, the remaining allegations in Paragraph 124 are denied. Defendant denies any characterizations of Proclamation 20-25 that are inconsistent with the text of the Proclamation.

125. Defendant admits that Proclamation 20-25 contains the quoted language, which contains part of the Governor's rationale for emergency action. To the extent a further response is required, the remaining allegations in Paragraph 125 are denied. Defendant denies any

1 characterizations of Proclamation 20-25 that are inconsistent with the text of the Proclamation.

2 126. Admit.

3 127. Admit.

4 128. Admit.

5 129. Admit.

6 130. Admit.

7 131. Admit.

8 132. Admit.

9 133. With the omission of the word “identifies,” admit.

10 134. Admit.

11 135. Defendant admits that one reason among others for his issuance of Proclamation
12 20-25 was the risk that hospitals in Washington could become overwhelmed. Defendant denies
13 the remainder of the allegations in Paragraph 135.

14 136. Defendant admits that one reason among others for his exercise of emergency
15 powers was the risk that hospitals in Washington could become overwhelmed. Defendant denies
16 the remainder of the allegations in Paragraph 136.

17 **2. May 4, 2020 Proclamation**

18 137. Deny.

19 138. Defendant admits that on May 4, 2020, Defendant ordered “that Proclamation 20-
20 05 and all amendments thereto remain in effect as otherwise amended, and that, to help preserve
21 and maintain life, health, property or the public peace pursuant to RCW 43.06.220(1)(h),
22 Proclamations 20-25, 20-25.1 and 20-25.2 (Stay Home – Stay Healthy) are amended to extend
23 all of the prohibitions and each expiration date therein to May 31, 2020, except for those
24 prohibitions regarding the specific activities listed below.”

25 139. Deny.

140. Defendant admits that the quoted language (without the emphasis) is contained in Proclamation 20-25.3, issued on May 4, 2020. Defendant denies the remainder of the allegations in Paragraph 140.

141. Defendant admits that the quoted language is contained in Proclamation 20-25.3.

142. Defendant admits that Proclamation 20-25.3 does not specifically discuss the rate of deaths among people over the age of eighty or sixty. Defendant denies the remainder of the allegations in Paragraph 142.

143. Defendant admits that Proclamation 20-25.3 does not specifically discuss the number of deaths among people under the age of twenty. Defendant denies the remainder of the allegations in Paragraph 143.

144. Admit.

145. Deny.

146. Defendant admits that the epidemiological models on which he and other state officials rely do not generally disaggregate projected deaths among different demographic groups. Defendant denies the remainder of the allegations in Paragraph 146.

147. Deny.

148. Defendant is without information sufficient to form a belief as what plaintiffs believe, and therefore denies the same. Defendant denies the remainder of the allegations in Paragraph 148.

149. Deny.

150. Defendant is without information sufficient to form a belief as what plaintiffs believe, and therefore denies the same. Defendant denies the remainder of the allegations in Paragraph 150.

151. Defendant admits that Proclamation 20-25.3 contains the quoted language (excluding the alteration), in reference to religious services. Defendant denies the characterizations contained in Paragraph 151.

152. Defendant is without information sufficient to form a belief as to the truth of the allegations in Paragraph 152, and therefore denies the same.

153. Deny.

154. Defendant is without information sufficient to form a belief as to the truth of the allegations in Paragraph 154, and therefore denies the same.

155. Paragraph 155 asserts legal conclusions and argument to which no response is required. To the extent a response is required, the allegations are denied.

156. Defendant admits that Proclamation 20-25.3 states: “the worldwide COVID-19 pandemic and its progression in Washington State continue to threaten the life and health of our people as well as the economy of Washington State, and remain a public disaster affecting life, health, property or the public peace[.]”

157. Deny.

158. Defendant admits that COVID-19 threatens the life and health of vulnerable Washingtonians. Defendant denies the remainder of the allegations in Paragraph 158.

159. Deny.

160. Deny.

161. Paragraph 161 asserts legal conclusions and argument to which no response is required. To the extent a response is required, the allegations are denied.

C. Harm To Each Plaintiff

1. Drew MacEwen

162. Defendant is without information sufficient to form a belief as to the truth of the allegations in Paragraph 162, and therefore denies the same.

1 163. Defendant is without information sufficient to form a belief as to the truth of the
2 allegations in Paragraph 163, and therefore denies the same.

3 164. Defendant is without information sufficient to form a belief as to the truth of the
4 allegations in Paragraph 164, and therefore denies the same.

5 165. Defendant is without information sufficient to form a belief as to the truth of the
6 allegations in Paragraph 165, and therefore denies the same.

7 166. Defendant is without information sufficient to form a belief as to the truth of the
8 allegations in Paragraph 166, and therefore denies the same.

9 167. Defendant is without information sufficient to form a belief as to the truth of the
10 allegations in Paragraph 167, and therefore denies the same.

11 168. Defendant is without information sufficient to form a belief as to the truth of the
12 allegations in Paragraph 168, and therefore denies the same.

13 **2. Andrew Barkins**

14 169. Admit.

15 170. Defendant is without information sufficient to form a belief as to the truth of the
16 allegations in Paragraph 170, and therefore denies the same.

17 171. Defendant is without information sufficient to form a belief as to the truth of the
18 allegations in Paragraph 171, and therefore denies the same.

19 172. Defendant is without information sufficient to form a belief as to the truth of the
20 allegations in Paragraph 172, and therefore denies the same.

21 173. Defendant is without information sufficient to form a belief as to the truth of the
22 allegations in Paragraph 173, and therefore denies the same.

23 174. Defendant is without information sufficient to form a belief as to the truth of the
24 allegations in Paragraph 174, and therefore denies the same.

1 175. Defendant is without information sufficient to form a belief as to the truth of the
2 allegations in Paragraph 175, and therefore denies the same.

3 176. Defendant is without information sufficient to form a belief as to the truth of the
4 allegations in Paragraph 176, and therefore denies the same.

5 177. Defendant is without information sufficient to form a belief as to the truth of the
6 allegations in Paragraph 177, and therefore denies the same.

7 178. Defendant is without information sufficient to form a belief as to the truth of the
8 allegations in Paragraph 178, and therefore denies the same.

9 179. Defendant is without information sufficient to form a belief as to the truth of the
10 allegations in Paragraph 179, and therefore denies the same.

11 180. Defendant is without information sufficient to form a belief as to the truth of the
12 allegations in Paragraph 180, and therefore denies the same.

13 181. Defendant is without information sufficient to form a belief as to the truth of the
14 allegations in Paragraph 181, and therefore denies the same.

15 182. Defendant is without information sufficient to form a belief as to the truth of the
16 allegations in Paragraph 182, and therefore denies the same.

17 183. Defendant is without information sufficient to form a belief as to the truth of the
18 allegations in Paragraph 183, and therefore denies the same.

19 184. Defendant is without information sufficient to form a belief as to the truth of the
20 allegations in Paragraph 184, and therefore denies the same.

21 **3. Chris Corry**

22 185. Defendant is without information sufficient to form a belief as to the truth of the
23 allegations in Paragraph 185, and therefore denies the same.

24 186. Defendant is without information sufficient to form a belief as to the truth of the
25 allegations in Paragraph 186, and therefore denies the same.

187. Defendant is without information sufficient to form a belief as to the truth of the allegations in Paragraph 187, and therefore denies the same.

188. Defendant is without information sufficient to form a belief as to the truth of the allegations in Paragraph 188, and therefore denies the same.

189. Defendant is without information sufficient to form a belief as to the truth of the allegations in Paragraph 189, and therefore denies the same.

190. Defendant is without information sufficient to form a belief as to the truth of the allegations in Paragraph 190, and therefore denies the same.

191. Defendant is without information sufficient to form a belief as to the truth of the allegations in Paragraph 191, and therefore denies the same.

192. Defendant is without information sufficient to form a belief as to the truth of the allegations in Paragraph 192, and therefore denies the same.

193. Defendant is without information sufficient to form a belief as to the truth of the allegations in Paragraph 193, and therefore denies the same.

194. Defendant is without information sufficient to form a belief as to the truth of the allegations in Paragraph 194, and therefore denies the same.

195. Defendant is without information sufficient to form a belief as to the truth of the allegations in Paragraph 195, and therefore denies the same.

196. Defendant is without information sufficient to form a belief as to the truth of the allegations in Paragraph 196, and therefore denies the same.

197. Defendant is without information sufficient to form a belief as to the truth of the allegations in Paragraph 197, and therefore denies the same.

198. Defendant is without information sufficient to form a belief as to the truth of the allegations in Paragraph 198, and therefore denies the same.

1 199. Defendant is without information sufficient to form a belief as to the truth of the
2 allegations in Paragraph 199, and therefore denies the same.

3 200. Defendant is without information sufficient to form a belief as to the truth of the
4 allegations in Paragraph 200, and therefore denies the same.

5 201. Defendant is without information sufficient to form a belief as to the truth of the
6 allegations in Paragraph 201, and therefore denies the same.

7 202. Defendant is without information sufficient to form a belief as to the truth of the
8 allegations in Paragraph 202, and therefore denies the same.

9 203. Defendant is without information sufficient to form a belief as to the truth of the
10 allegations in Paragraph 203, and therefore denies the same.

11 204. Defendant is without information sufficient to form a belief as to the truth of the
12 allegations in Paragraph 204, and therefore denies the same.

13 205. Defendant is without information sufficient to form a belief as to the truth of the
14 allegations in Paragraph 205, and therefore denies the same.

15 206. Defendant is without information sufficient to form a belief as to the truth of the
16 allegations in Paragraph 206, and therefore denies the same.

17 207. Defendant is without information sufficient to form a belief as to the truth of the
18 allegations in Paragraph 207, and therefore denies the same.

19 208. Defendant is without information sufficient to form a belief as to the truth of the
20 allegations in Paragraph 208, and therefore denies the same.

21 209. Defendant is without information sufficient to form a belief as to the truth of the
22 allegations in Paragraph 209, and therefore denies the same.

23 210. Defendant is without information sufficient to form a belief as to the truth of the
24 allegations in Paragraph 210, and therefore denies the same.

1 211. Defendant is without information sufficient to form a belief as to the truth of the
2 allegations in Paragraph 211, and therefore denies the same.

3 212. Defendant is without information sufficient to form a belief as to the truth of the
4 allegations in Paragraph 212, and therefore denies the same.

5 213. Defendant is without information sufficient to form a belief as to the truth of the
6 allegations in Paragraph 213, and therefore denies the same.

7 214. Defendant is without information sufficient to form a belief as to the truth of the
8 allegations in Paragraph 214, and therefore denies the same.

9 215. Defendant is without information sufficient to form a belief as to the truth of the
10 allegations in Paragraph 215, and therefore denies the same.

11 216. Defendant is without information sufficient to form a belief as to the truth of the
12 allegations in Paragraph 216, and therefore denies the same.

13 217. Defendant is without information sufficient to form a belief as to the truth of the
14 allegations in Paragraph 217, and therefore denies the same.

15 218. Defendant is without information sufficient to form a belief as to the truth of the
16 allegations in Paragraph 218, and therefore denies the same.

17 219. Defendant is without information sufficient to form a belief as to the truth of the
18 allegations in Paragraph 219, and therefore denies the same.

19 220. Defendant is without information sufficient to form a belief as to the truth of the
20 allegations in Paragraph 220, and therefore denies the same.

21 221. Defendant is without information sufficient to form a belief as to the truth of the
22 allegations in Paragraph 221, and therefore denies the same.

23 222. Defendant is without information sufficient to form a belief as to the truth of the
24 allegations in Paragraph 222, and therefore denies the same.

223. Defendant is without information sufficient to form a belief as to the truth of the allegations in Paragraph 223, and therefore denies the same.

224. Defendant is without information sufficient to form a belief as to the truth of the allegations in Paragraph 224, and therefore denies the same.

4. Brandon Vick

225. Defendant is without information sufficient to form a belief as to the truth of the allegations in Paragraph 225, and therefore denies the same.

226. Defendant is without information sufficient to form a belief as to the truth of the allegations in Paragraph 226, and therefore denies the same.

227. Defendant is without information sufficient to form a belief as to the truth of the allegations in Paragraph 227, and therefore denies the same.

228. Defendant is without information sufficient to form a belief as to the truth of the allegations in Paragraph 228, and therefore denies the same.

229. Defendant is without information sufficient to form a belief as to the truth of the allegations in Paragraph 229, and therefore denies the same.

230. Defendant is without information sufficient to form a belief as to the truth of the allegations in Paragraph 230, and therefore denies the same.

231. Defendant is without information sufficient to form a belief as to the truth of the allegations in Paragraph 231, and therefore denies the same.

232. Defendant is without information sufficient to form a belief as to the truth of the allegations in Paragraph 232, and therefore denies the same.

233. Defendant is without information sufficient to form a belief as to the truth of the allegations in Paragraph 233, and therefore denies the same.

234. Defendant is without information sufficient to form a belief as to the truth of the allegations in Paragraph 234, and therefore denies the same.

1 235. Defendant is without information sufficient to form a belief as to the truth of the
2 allegations in Paragraph 235, and therefore denies the same.

3 236. Defendant is without information sufficient to form a belief as to the truth of the
4 allegations in Paragraph 236, and therefore denies the same.

5 237. Defendant is without information sufficient to form a belief as to the truth of the
6 allegations in Paragraph 237, and therefore denies the same.

7 238. Defendant is without information sufficient to form a belief as to the truth of the
8 allegations in Paragraph 238, and therefore denies the same.

9 239. Defendant is without information sufficient to form a belief as to the truth of the
10 allegations in Paragraph 239, and therefore denies the same.

11 240. Defendant is without information sufficient to form a belief as to the truth of the
12 allegations in Paragraph 240, and therefore denies the same.

13 241. Defendant is without information sufficient to form a belief as to the truth of the
14 allegations in Paragraph 241, and therefore denies the same.

15 242. Defendant is without information sufficient to form a belief as to the truth of the
16 allegations in Paragraph 242, and therefore denies the same.

17 243. Defendant is without information sufficient to form a belief as to the truth of the
18 allegations in Paragraph 243, and therefore denies the same.

19 244. Defendant is without information sufficient to form a belief as to the truth of the
20 allegations in Paragraph 244, and therefore denies the same.

21 245. Defendant is without information sufficient to form a belief as to the truth of the
22 allegations in Paragraph 245, and therefore denies the same.

23 246. Defendant is without information sufficient to form a belief as to the truth of the
24 allegations in Paragraph 246, and therefore denies the same.

247. Defendant is without information sufficient to form a belief as to the truth of the allegations in Paragraph 247, and therefore denies the same.

248. Defendant is without information sufficient to form a belief as to the truth of the allegations in Paragraph 248, and therefore denies the same.

249. Defendant is without information sufficient to form a belief as to the truth of the allegations in Paragraph 249, and therefore denies the same.

250. Defendant is without information sufficient to form a belief as to the truth of the allegations in Paragraph 250, and therefore denies the same.

251. Defendant is without information sufficient to form a belief as to the truth of the allegations in Paragraph 251, and therefore denies the same.

252. Defendant is without information sufficient to form a belief as to the truth of the allegations in Paragraph 252, and therefore denies the same.

5. Kelly Chambers

253. Admit.

254. Defendant is without information sufficient to form a belief as to the truth of the allegations in Paragraph 254, and therefore denies the same.

255. Defendant is without information sufficient to form a belief as to the truth of the allegations in Paragraph 255, and therefore denies the same.

256. Defendant is without information sufficient to form a belief as to the truth of the allegations in Paragraph 256, and therefore denies the same.

257. Defendant is without information sufficient to form a belief as to the truth of the allegations in Paragraph 257, and therefore denies the same.

258. Defendant is without information sufficient to form a belief as to the truth of the allegations in Paragraph 258, and therefore denies the same.

1 259. Defendant is without information sufficient to form a belief as to the truth of the
2 allegations in Paragraph 259, and therefore denies the same.

3 260. Defendant is without information sufficient to form a belief as to the truth of the
4 allegations in Paragraph 260, and therefore denies the same.

5 261. Defendant is without information sufficient to form a belief as to the truth of the
6 allegations in Paragraph 261, and therefore denies the same.

7 262. Defendant is without information sufficient to form a belief as to the truth of the
8 allegations in Paragraph 262, and therefore denies the same.

9 263. Defendant is without information sufficient to form a belief as to the truth of the
10 allegations in Paragraph 263, and therefore denies the same.

11 264. Defendant is without information sufficient to form a belief as to the truth of the
12 allegations in Paragraph 264, and therefore denies the same.

13 265. Defendant is without information sufficient to form a belief as to the truth of the
14 allegations in Paragraph 265, and therefore denies the same.

15 266. Defendant is without information sufficient to form a belief as to the truth of the
16 allegations in Paragraph 266, and therefore denies the same.

17 267. Defendant is without information sufficient to form a belief as to the truth of the
18 allegations in Paragraph 267, and therefore denies the same.

19 268. Defendant is without information sufficient to form a belief as to the truth of the
20 allegations in Paragraph 268, and therefore denies the same.

21 269. Defendant is without information sufficient to form a belief as to the truth of the
22 allegations in Paragraph 269, and therefore denies the same.

23 270. Defendant is without information sufficient to form a belief as to the truth of the
24 allegations in Paragraph 270, and therefore denies the same.

1 271. Defendant is without information sufficient to form a belief as to the truth of the
2 allegations in Paragraph 271, and therefore denies the same.

3 272. Defendant is without information sufficient to form a belief as to the truth of the
4 allegations in Paragraph 272, and therefore denies the same.

5 273. Defendant is without information sufficient to form a belief as to the truth of the
6 allegations in Paragraph 273, and therefore denies the same.

7 274. Defendant is without information sufficient to form a belief as to the truth of the
8 allegations in Paragraph 274, and therefore denies the same.

9 275. Defendant is without information sufficient to form a belief as to the truth of the
10 allegations in Paragraph 275, and therefore denies the same.

11 276. Defendant is without information sufficient to form a belief as to the truth of the
12 allegations in Paragraph 276, and therefore denies the same.

13 277. Defendant is without information sufficient to form a belief as to the truth of the
14 allegations in Paragraph 277, and therefore denies the same.

15 278. Defendant is without information sufficient to form a belief as to the truth of the
16 allegations in Paragraph 278, and therefore denies the same.

17 279. Defendant is without information sufficient to form a belief as to the truth of the
18 allegations in Paragraph 279, and therefore denies the same.

19 280. Defendant is without information sufficient to form a belief as to the truth of the
20 allegations in Paragraph 280, and therefore denies the same.

21 281. Defendant is without information sufficient to form a belief as to the truth of the
22 allegations in Paragraph 281, and therefore denies the same.

23 282. Defendant is without information sufficient to form a belief as to the truth of the
24 allegations in Paragraph 282, and therefore denies the same.

283. Defendant is without information sufficient to form a belief as to the truth of the allegations in Paragraph 283, and therefore denies the same.

6. Phil Fortunato

284. Admit.

285. Defendant is without information sufficient to form a belief as to the truth of the allegations in Paragraph 285, and therefore denies the same.

286. Defendant is without information sufficient to form a belief as to the truth of the allegations in Paragraph 286, and therefore denies the same.

287. Defendant is without information sufficient to form a belief as to the truth of the allegations in Paragraph 287, and therefore denies the same.

288. Defendant is without information sufficient to form a belief as to the truth of the allegations in Paragraph 288, and therefore denies the same.

289. Defendant admits that the Governor's Proclamations have limited some construction activity. To the extent a further response is required, the remainder of Paragraph 289 is denied.

290. Defendant is without information sufficient to form a belief as to the truth of the allegations in Paragraph 290, and therefore denies the same.

291. Defendant is without information sufficient to form a belief as to the truth of the allegations in Paragraph 291, and therefore denies the same.

292. Defendant is without information sufficient to form a belief as to the truth of the allegations in Paragraph 292, and therefore denies the same.

293. Defendant is without information sufficient to form a belief as to the truth of the allegations in Paragraph 293, and therefore denies the same.

294. Defendant is without information sufficient to form a belief as to the truth of the allegations in Paragraph 294, and therefore denies the same.

1 **7. Michael McKee**

2 295. Defendant is without information sufficient to form a belief as to the truth of the
3 allegations in Paragraph 295, and therefore denies the same.

4 296. Defendant is without information sufficient to form a belief as to the truth of the
5 allegations in Paragraph 296, and therefore denies the same.

6 297. Defendant is without information sufficient to form a belief as to the truth of the
7 allegations in Paragraph 297, and therefore denies the same.

8 298. Defendant is without information sufficient to form a belief as to the truth of the
9 allegations in Paragraph 298, and therefore denies the same.

10 299. Defendant is without information sufficient to form a belief as to the truth of the
11 allegations in Paragraph 299, and therefore denies the same.

12 300. Defendant is without information sufficient to form a belief as to the truth of the
13 allegations in Paragraph 300, and therefore denies the same.

14 301. Defendant is without information sufficient to form a belief as to the truth of the
15 allegations in Paragraph 301, and therefore denies the same.

16 302. Defendant is without information sufficient to form a belief as to the truth of the
17 allegations in Paragraph 302, and therefore denies the same.

18 303. Defendant is without information sufficient to form a belief as to the truth of the
19 allegations in Paragraph 303, and therefore denies the same.

20 304. Defendant is without information sufficient to form a belief as to the truth of the
21 allegations in Paragraph 304, and therefore denies the same.

22 305. Defendant is without information sufficient to form a belief as to the truth of the
23 allegations in Paragraph 305, and therefore denies the same.

24 306. Defendant is without information sufficient to form a belief as to the truth of the
25 allegations in Paragraph 306, and therefore denies the same.

1 307. Defendant is without information sufficient to form a belief as to the truth of the
2 allegations in Paragraph 307, and therefore denies the same.

3 308. Defendant is without information sufficient to form a belief as to the truth of the
4 allegations in Paragraph 308, and therefore denies the same.

5 309. Defendant is without information sufficient to form a belief as to the truth of the
6 allegations in Paragraph 309, and therefore denies the same.

7 310. Paragraph 310 asserts legal conclusions to which no response is required. To the
8 extent a response is required, it is denied.

9 311. Paragraph 311 asserts legal conclusions to which no response is required. To the
10 extent a response is required, it is denied.

11 312. Defendant is without information sufficient to form a belief as to the truth of the
12 allegations in Paragraph 312, and therefore denies the same.

13 313. Defendant is without information sufficient to form a belief as to the truth of the
14 allegations in Paragraph 313, and therefore denies the same.

15 314. Defendant is without information sufficient to form a belief as to the truth of the
16 allegations in Paragraph 314, and therefore denies the same.

17 315. Defendant is without information sufficient to form a belief as to the truth of the
18 allegations in Paragraph 315, and therefore denies the same.

19 316. Defendant is without information sufficient to form a belief as to the truth of the
20 allegations in Paragraph 316, and therefore denies the same.

21 317. Defendant is without information sufficient to form a belief as to the truth of the
22 allegations in Paragraph 317, and therefore denies the same.

23 318. Defendant is without information sufficient to form a belief as to the truth of the
24 allegations in Paragraph 318, and therefore denies the same.

1 319. Defendant is without information sufficient to form a belief as to the truth of the
2 allegations in Paragraph 319, and therefore denies the same.

3 320. Defendant is without information sufficient to form a belief as to the truth of the
4 allegations in Paragraph 320, and therefore denies the same.

5 321. Defendant admits that certain social events have been banned as a result of the
6 Proclamation. Defendant denies that all social events have been banned.

7 322. Defendant is without information sufficient to form a belief as to the truth of the
8 allegations in Paragraph 322, and therefore denies the same.

9 323. Defendant is without information sufficient to form a belief as to the truth of the
10 allegations in Paragraph 323, and therefore denies the same.

11 324. Defendant is without information sufficient to form a belief as to the truth of the
12 allegations in Paragraph 324, and therefore denies the same.

13 **8. Fran Wills**

14 325. Defendant is without information sufficient to form a belief as to the truth of the
15 allegations in Paragraph 325, and therefore denies the same.

16 326. Defendant is without information sufficient to form a belief as to the truth of the
17 allegations in Paragraph 326, and therefore denies the same.

18 327. Defendant is without information sufficient to form a belief as to the truth of the
19 allegations in Paragraph 327, and therefore denies the same.

20 328. Defendant is without information sufficient to form a belief as to the truth of the
21 allegations in Paragraph 328, and therefore denies the same.

22 329. Defendant is without information sufficient to form a belief as to the truth of the
23 allegations in Paragraph 329, and therefore denies the same.

24 330. Defendant is without information sufficient to form a belief as to the truth of the
25 allegations in Paragraph 330, and therefore denies the same.

331. Defendant is without information sufficient to form a belief as to the truth of the allegations in Paragraph 331, and therefore denies the same.

332. Defendant is without information sufficient to form a belief as to the truth of the allegations in Paragraph 332, and therefore denies the same.

333. Defendant is without information sufficient to form a belief as to the truth of the allegations in Paragraph 333, and therefore denies the same.

334. Defendant is without information sufficient to form a belief as to the truth of the allegations in Paragraph 334, and therefore denies the same.

335. Defendant is without information sufficient to form a belief as to the truth of the allegations in Paragraph 335, and therefore denies the same.

336. Defendant is without information sufficient to form a belief as to the truth of the allegations in Paragraph 336, and therefore denies the same.

337. Defendant is without information sufficient to form a belief as to the truth of the allegations in Paragraph 337, and therefore denies the same.

338. Defendant is without information sufficient to form a belief as to the truth of the allegations in Paragraph 338, and therefore denies the same.

339. Defendant is without information sufficient to form a belief as to the truth of the allegations in Paragraph 339, and therefore denies the same.

340. Defendant is without information sufficient to form a belief as to the truth of the allegations in Paragraph 340, and therefore denies the same.

341. Defendant is without information sufficient to form a belief as to the truth of the allegations in Paragraph 341, and therefore denies the same.

342. Defendant is without information sufficient to form a belief as to the truth of the allegations in Paragraph 342, and therefore denies the same.

1 343. Defendant is without information sufficient to form a belief as to the truth of the
2 allegations in Paragraph 343, and therefore denies the same.

3 344. Defendant is without information sufficient to form a belief as to the truth of the
4 allegations in Paragraph 344, and therefore denies the same.

5 345. Defendant is without information sufficient to form a belief as to the truth of the
6 allegations in Paragraph 345, and therefore denies the same.

7 346. Defendant is without information sufficient to form a belief as to the truth of the
8 allegations in Paragraph 346, and therefore denies the same.

9 347. Defendant is without information sufficient to form a belief as to the truth of the
10 allegations in Paragraph 347, and therefore denies the same.

11 348. Defendant is without information sufficient to form a belief as to the truth of the
12 allegations in Paragraph 348, and therefore denies the same.

13 349. Defendant is without information sufficient to form a belief as to the truth of the
14 allegations in Paragraph 349, and therefore denies the same.

15 350. Defendant is without information sufficient to form a belief as to the truth of the
16 allegations in Paragraph 350, and therefore denies the same.

17 351. Defendant is without information sufficient to form a belief as to the truth of the
18 allegations in Paragraph 351, and therefore denies the same.

19 352. Defendant is without information sufficient to form a belief as to the truth of the
20 allegations in Paragraph 352, and therefore denies the same.

21 353. Defendant is without information sufficient to form a belief as to the truth of the
22 allegations in Paragraph 353, and therefore denies the same.

23 354. Defendant is without information sufficient to form a belief as to the truth of the
24 allegations in Paragraph 354, and therefore denies the same.

355. Defendant is without information sufficient to form a belief as to the truth of the allegations in Paragraph 355, and therefore denies the same.

9. Bruce Russell

356. Defendant is without information sufficient to form a belief as to the truth of the allegations in Paragraph 356, and therefore denies the same.

357. Defendant is without information sufficient to form a belief as to the truth of the allegations in Paragraph 357, and therefore denies the same.

358. Defendant is without information sufficient to form a belief as to the truth of the allegations in Paragraph 358, and therefore denies the same.

359. Defendant is without information sufficient to form a belief as to the truth of the allegations in Paragraph 359, and therefore denies the same.

360. Defendant is without information sufficient to form a belief as to the truth of the allegations in Paragraph 360, and therefore denies the same.

361. Defendant is without information sufficient to form a belief as to the truth of the allegations in Paragraph 361, and therefore denies the same.

362. Defendant is without information sufficient to form a belief as to the truth of the allegations in Paragraph 362, and therefore denies the same.

363. Defendant is without information sufficient to form a belief as to the truth of the allegations in Paragraph 363, and therefore denies the same.

364. Defendant is without information sufficient to form a belief as to the truth of the allegations in Paragraph 364, and therefore denies the same.

365. Defendant is without information sufficient to form a belief as to the truth of the allegations in Paragraph 365, and therefore denies the same.

366. Defendant is without information sufficient to form a belief as to the truth of the allegations in Paragraph 366, and therefore denies the same.

1 367. Defendant is without information sufficient to form a belief as to the truth of the
2 allegations in Paragraph 367, and therefore denies the same.

3 **10. Dave McMullan**

4 368. Defendant is without information sufficient to form a belief as to the truth of the
5 allegations in Paragraph 368, and therefore denies the same.

6 369. Defendant is without information sufficient to form a belief as to the truth of the
7 allegations in Paragraph 369, and therefore denies the same.

8 370. Defendant is without information sufficient to form a belief as to the truth of the
9 allegations in Paragraph 370, and therefore denies the same.

10 371. Defendant is without information sufficient to form a belief as to the truth of the
11 allegations in Paragraph 371, and therefore denies the same.

12 372. Defendant is without information sufficient to form a belief as to the truth of the
13 allegations in Paragraph 372, and therefore denies the same.

14 373. Defendant is without information sufficient to form a belief as to the truth of the
15 allegations in Paragraph 373, and therefore denies the same.

16 374. Defendant is without information sufficient to form a belief as to the truth of the
17 allegations in Paragraph 374, and therefore denies the same.

18 375. Defendant is without information sufficient to form a belief as to the truth of the
19 allegations in Paragraph 375, and therefore denies the same.

20 376. Defendant is without information sufficient to form a belief as to the truth of the
21 allegations in Paragraph 376, and therefore denies the same.

22 377. Defendant is without information sufficient to form a belief as to the truth of the
23 allegations in Paragraph 377, and therefore denies the same.

24 378. Defendant is without information sufficient to form a belief as to the truth of the
25 allegations in Paragraph 378, and therefore denies the same.

379. Defendant is without information sufficient to form a belief as to the truth of the allegations in Paragraph 379, and therefore denies the same.

380. Defendant is without information sufficient to form a belief as to the truth of the allegations in Paragraph 380, and therefore denies the same.

381. Defendant is without information sufficient to form a belief as to the truth of the allegations in Paragraph 381, and therefore denies the same.

382. Defendant is without information sufficient to form a belief as to the truth of the allegations in Paragraph 382, and therefore denies the same.

383. Defendant is without information sufficient to form a belief as to the truth of the allegations in Paragraph 383, and therefore denies the same.

11. Isaac Vellekamp

384. Defendant is without information sufficient to form a belief as to the truth of the allegations in Paragraph 384, and therefore denies the same.

385. Defendant is without information sufficient to form a belief as to the truth of the allegations in Paragraph 385, and therefore denies the same.

386. Defendant admits that police, firefighters, and first responders are designated essential workforce under the Appendix to Proclamation 20-25. Defendant is without information sufficient to form a belief as to the truth of the remainder of the allegations in Paragraph 386, and therefore denies the same.

387. Defendant admits that many doctors and nurses are designated essential workforce under the Appendix to Proclamation 20-25. Defendant is without information sufficient to form a belief as to the truth of the remainder of the allegations in Paragraph 387, and therefore denies the same.

388. Defendant is without information sufficient to form a belief as to the truth of the allegations in Paragraph 388, and therefore denies the same.

389. Defendant is without information sufficient to form a belief as to the truth of the allegations in Paragraph 389, and therefore denies the same.

390. Defendant is without information sufficient to form a belief as to the truth of the allegations in Paragraph 390, and therefore denies the same.

391. Defendant is without information sufficient to form a belief as to the truth of the allegations in Paragraph 391, and therefore denies the same.

392. Defendant is without information sufficient to form a belief as to the truth of the allegations in Paragraph 392, and therefore denies the same.

393. Defendant is without information sufficient to form a belief as to the truth of the allegations in Paragraph 393, and therefore denies the same.

394. Defendant is without information sufficient to form a belief as to the truth of the allegations in Paragraph 394, and therefore denies the same.

395. Defendant is without information sufficient to form a belief as to the truth of the allegations in Paragraph 395, and therefore denies the same.

396. Defendant is without information sufficient to form a belief as to the truth of the allegations in Paragraph 396, and therefore denies the same.

397. Defendant is without information sufficient to form a belief as to the truth of the allegations in Paragraph 397, and therefore denies the same.

V. CAUSES OF ACTION

398. Defendant incorporates by reference his answers to paragraphs 1 through 397.

A. Count I: Declaratory Relief That the Proclamations Infringe the First Amendment Right to Free Exercise of Religion

399. Paragraph 399 asserts legal conclusions to which no response is required. To the extent a response is required, it is denied.

B. Count II: Declaratory Relief That Proclamations Infringe the Fifth Amendment Right to Liberty, Which has Been Deprived of Plaintiffs Without Due Process of Law

400. Paragraph 400 asserts legal conclusions to which no response is required. To the extent a response is required, it is denied.

C. Count III: Declaratory Relief That Proclamations Infringe the Fifth Amendment Right to Liberty, Which has Been Deprived of Plaintiffs Without Due Process of Law

401. Paragraph 401 asserts legal conclusions to which no response is required. To the extent a response is required, it is denied.

D. Count IV: Declaratory Relief That Proclamations Infringe the Constitutional Right of People to Work for a Living

402. Paragraph 402 asserts legal conclusions to which no response is required. To the extent a response is required, it is denied.

E. Count V: Declaratory Relief That Proclamations Deprive Citizens of Property Without Due Process of Law

403. Paragraph 403 asserts legal conclusions to which no response is required. To the extent a response is required, it is denied.

F. Count VI: Violation of Civil Rights (42 U.S.C. § 1983)

404. Paragraph 404 asserts legal conclusions to which no response is required. To the extent a response is required, it is denied.

405. Paragraph 405 asserts legal conclusions to which no response is required. To the extent a response is required, it is denied.

406. Paragraph 406 asserts legal conclusions to which no response is required. To the extent a response is required, it is denied.

G. Count VII: Constitutionality of State Statutes

407. Paragraph 407 asserts legal conclusions to which no response is required. To the extent a response is required, it is denied.

H. Count VIII: Injunctive Relief

408. Paragraph 408 asserts legal conclusions to which no response is required. To the extent a response is required, it is denied.

409. Paragraph 409 asserts legal conclusions to which no response is required. To the extent a response is required, it is denied.

VI. JURY DEMAND

410. This paragraph asserts Plaintiffs' request for a trial by jury and requires no response. To the extent a response is required, it is denied.

VII. PRAYER FOR RELIEF

411–414. The four paragraphs in this part of the Complaint, constitute Plaintiffs' request for relief, to which no response is required. To the extent a response is required, Defendant denies that Plaintiffs are entitled to the relief requested or to any relief whatsoever.

VIII. DEFENDANT'S AFFIRMATIVE DEFENSES

The Defendant's affirmative defenses to the Complaint are set forth below. By setting forth the following defenses, Defendant does not assume the burden of proof on the matter and issue other than for those on which he has the burden of proof as a matter of law. Defendant reserves the right to supplement these defenses.

1. Defendant is immune from suit under the Eleventh Amendment to the U.S. Constitution.

2. Defendant is entitled to qualified immunity.

3. Plaintiffs have failed to exhaust administrative remedies.

4. Plaintiffs lack standing.

1 5. Plaintiffs' claims are moot or unripe.

2 6. This case is non-justiciable.

3 7. This Court lacks subject matter jurisdiction.

4 8. Plaintiffs have failed to state a claim upon which relief may be granted.

5 9. Plaintiffs have failed to join necessary parties.

6 10. Abstention doctrines warrant a stay or dismissal of the case.

7 11. The Proclamation is a neutral law of general application and rationally related to
8 a legitimate governmental purpose.

9 12. The Proclamation is content-neutral, narrowly tailored to serve a significant
10 governmental interest, and leaves open ample alternative channels for assembly.

11 13. The Proclamation serves compelling governmental interests that are unrelated to
12 the suppression of ideas, speech, association, or assembly, and that cannot be achieved through
13 significantly less restrictive means.

14 14. The Proclamation is narrowly tailored to advance a compelling governmental
15 interest.

16 15. The Proclamation has a real and substantial relation to the COVID-19 public
17 health crisis and is not a plain, palpable invasion of Plaintiffs' rights.

18 **IX. DEFENDANT'S REQUEST FOR RELIEF**

19 Wherefore, Defendant prays that the Court:

20 Dismiss Plaintiffs' Complaint with prejudice and without leave to amend;

21 1. Deny all relief that Plaintiffs' request;

22 2. Grant Defendant his costs and reasonable attorney fees; and

23 3. Grant Defendant such other and further relief as the Court may deem just and
24 proper.

1 DATED this 9th day of June 2020.

2 ROBERT W. FERGUSON
3 Attorney General

4 s/ Brendan Selby

5 BRENDAN SELBY, WSBA No. 55325
6 ZACHARY PEKELIS JONES, WSBA No. 44557

7 Assistant Attorney General
8 Complex Litigation Division
9 JEFFREY T. EVEN, WSBA No. 20367
10 EMMA S. GRUNBERG, WSBA No. 54659
11 PAUL M. WEIDEMAN, WSBA No. 42254

12 Deputy Solicitors General
13 800 Fifth Avenue, Suite 2000
14 Seattle, WA 98104

15 (206) 254-4270

16 (206) 332-7089

17 (206) 521-3222

18 (360) 586-0728

19 (360) 753-7085

20 brendan.selby@atg.wa.gov

21 zach.jones@atg.wa.gov

22 jeffrey.even@atg.wa.gov

23 emma.grunberg@atg.wa.gov

24 paul.weideman@atg.wa.gov

25 *Attorneys for Defendant Jay Inslee,*
26 *Governor of Washington*